IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE N.V. RAMANA
WRIT PETITION NO : 11451 of 2004

Between:

1 B. Harun Basha, S/o Late Abdul Kareem, Muslim,
2 B. Abdul Hafeez, S/o Abdul Kareem, Muslim,
3 B. Ameer Ahmed, S/o Abdul Kareem, Muslim,
4 B. Mustaq Ahmed, S/o Abdul Kareem, Muslim,

All are brothers, Cultivators, residing at D.No. 16-4-27, Zulfi Street, Hindupur, Ananthapur District.

..... PETITIONER(S)

AND

1 The Revenue Divisional Officer, Penukonda, Ananthapur District.
2 The Mandal Revenue Officer, Parigi Post, Ananthapur District.
3 Vaddi Gangappa, S/o Venkatappa,
Ananthapur District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ, order or direction in the nature of Mandamus declaring the action of the 1st respondent in his proceedings Rc.No. 1243/2002/D dt. 10-6-2004 vacating the interim stay granted by him in Rc.No. 1243/2000/D dt. 3-8-2002 at the instance of the 3rd respondent without notice either to the petitioners nor their counsel is illegal, arbitrary, unjust and violative of Article 14 of the Constitution of India and the principles of natural justice

For the Petitioner:MR.E.V.BHAGIRATHA RAO -Advocate

For the Respondent Nos 1 & 2 .: GP FOR REVENUE

For the respondent No.3 : --

The Court at the stage of admission made the Following order :

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 11451 OF 2004

ORDER:

The present writ petition is filed questioning the action of the first respondent vide order dated 10-6-2004 vacating the interim stay granted vide order dated 3-8-2002.

The petitioners claim that their father was granted patta vide proceedings No. 8-A/251-A/65 in respect of land admeasuring Ac.3-90 cents in survey No. 160/1 and cultivating the same and that on his demise the names of the petitioners were entered in the pattadar pass book and ryot pass book. The petitioners claim that the subject land is in their possession since 1965. While so, it is alleged that at the instance of third respondent, the second respondent without issuing any notice passed orders dated 5-6-2002 resuming the subject lands. Questioning the said order, the petitioners had filed an appeal before the first respondent wherein by order dated 3-8-2002 the order of the second respondent dated 5-6-2002 was stayed. The grievance of the petitioner is that while the matter stood thus, all of a sudden, without giving notice to the petitioners or their counsel, the first respondent has passed orders dated 10-6-2004 vacating the interim stay granted on 3-8-2002 and posted the matter for hearing on 28-6-2004 and adjourned the matter on 28-6-2004 to a future date. Questioning the said order, the present writ petition is filed.

The main contention of the learned counsel for petitioners is that the matter is pending before the first respondent for almost two years and without giving notice to petitioners, and without assigning reasons the impugned order is passed, merely referring to an application said to have been filed by the third respondent dated 8-6-2004.

The impugned order reads as under:

> " In the circumstances explained by Sri Vaddi Gangappa S/o.Venkatappa of P.Narasapuram in the reference 2nd cited, the stay granted earlier, in the reference 1st cited with regard to S.No.160-1 Ext 3-90 Acs of P.Narasapuram against the operation of orders of Mandal Revenue Officer, Parigi passed in R.Dis

No.555/2001 dated 5-6-2002 hereby vacated.

The case is posted for hearing on 28-06-2004 at 11-00 A.M. at Sub-Collector's office, Penukonda."

A reading of the impugned order, would clearly show that the same is passed without issuing notice to the petitioners and without assigning valid reasons for vacating the interim order granted on 5-6-2002, as such the impugned order is unsustainable.

Heard learned counsel for petitioner and learned Government Pleader for Revenue, both counsel agreed for disposal of the writ petition with the following direction:

In the circumstances, the writ petition is disposed of directing the first respondent to dispose of the appeal filed by the petitioner in accordance with law, as expeditiously as possible. Till such time, status quo existing as on today shall be maintained regarding possession of the land. No costs.

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N.V.RAMANA,J

07-07-2004

TVK

To

1 The Revenue Divisional Officer, Penukonda, Ananthapur District.
2 The Mandal Revenue Officer, Parigi Post, Ananthapur District.
3.. 2CCs to G.P. for Revenue, High Court of A.P., Hyderabad(OUT)
4 ..2CD copies

*Form-NIC-OGS/WP{**AVLR**}*